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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/612,141	07/07/2000	Alan T. Ruberg		7800
23879	7590	02/19/2004	EXAMINER	
BRIAN M BERLINER, ESQ O'MELVENY & MYERS, LLP 400 SOUTH HOPE STREET LOS ANGELES, CA 90071-2899			LEZAK, ARRIENNE M	
		ART UNIT	PAPER NUMBER	6
		2143		

DATE MAILED: 02/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/612,141	RUBERG ET AL.
	Examiner	Art Unit
	Arrienne M. Lezak	2143

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on ____.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 52-93 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) Claim(s) ____ is/are allowed.
- 6) Claim(s) 52-93 is/are rejected.
- 7) Claim(s) ____ is/are objected to.
- 8) Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on ____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. ____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: ____.

DETAILED ACTION

1. Examiner notes that Claims 1-51 have been cancelled. Examiner further notes that Claims 52-93 have been added. Claims not explicitly addressed herein are found to be addressed within prior Office Action dated 30 September 2003 as reiterated herein below.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 52-93 are rejected under 35 U.S.C. 102(e) as being anticipated by US Patent 6,460,082 B1 to Lumelsky.

4. Regarding Claims 52, 53, 68, 69, 73, 74, 82, 87, 92 and 93, Lumelsky discloses a system and method for device management in a grouped server system, comprising a plurality of servers operating in a group and a plurality of desk top units persistently coupled via an interconnect, each of said servers comprising a device manager, comprising said device managers brokering devices coupled to said desktop units to at least one device and/or service directly and/or remotely, (Col. 5-6). The Lumelsky system and method further comprises a service creating a request for allocation of a device by determining which device manager manages said device and informing said service of said managing device manager, (wherein said request comprises

desired device capabilities); a first device manager in a first server transferring said request to a second device manager in a second server, said first device manager being coupled to said service; said second device manager allocating said device to said service; and said second device manager informing said first device manager of said allocation, (Abstract, Col. 16, lines 45-67 and Col. 17, lines 1-8). Therefore, this reference may reasonably be read to teach or describe every element or claim limitation of Claims 52, 53, 68, 69, 73, 74, 82, 87, 92 and 93.

5. Regarding Claims 54-56, 78-81 and 89-91, Lumelsky discloses a system and method for device management wherein the first server and second server operate in a group, further comprising: establishing a first optionally event-terminating communication path, (comprising receipt of a group list comprising server information and transference of device reports and allocation requests), between said first device manager and said second device manager; and establishing an optionally event-specific, (resetting of desktop unit or failure of first device manager), and/or arbitrary second communication path between a desktop unit and said second device manager, said device being coupled to said desktop unit for purposes of device data transference, (Abstract, Col. 16, lines 45-67 and Col. 17, lines 1-8). Therefore, this reference may reasonably be read to teach or describe every element or claim limitation of Claims 54-56, 78-81 and 89-91.

6. Regarding Claims 57-61 and 83-85, Lumelsky discloses a method for device management wherein a first device manager creates a first device list, (comprising device records for devices the first device manager manages), and a second device manager creates a second device list, (comprising device records for devices managed by the first device manager and peer device managers in the group server system). Said group server system further disclosed as

comprising a plurality of device managers and a plurality of desktop units coupled to an interconnect, further comprising identifying which device manager manages which device, (Col.5). Therefore, this reference may reasonably be read to teach or describe every element or claim limitation of Claims 57-61 and 83-85.

7. Regarding Claims 62-67 and 88, Lumelsky discloses a method for device management wherein the first device manager creates a finder comprising scoping rules from the service in accordance with the device request; searches the first device list coupled to the first device manager for a device matching the finder; and storing the finder locally as in the first server. Lumelsky further discloses the transferring of said request to a second device manager for creation of a request-specific second finder, searching the device list coupled to the second device manager, and storing the second finder in the second server. (Abstract, Col. 16, lines 45-67 and Col. 17, lines 1-8). Therefore, this reference may reasonably be read to teach or describe every element or claim limitation of Claims 62-67 and 88.

8. Regarding Claims 70-72 and 86, Lumelsky discloses a method for device management wherein the desktop messages are time-stamped by the grouped server system universal clock as they are generated, (Col. 5, lines 26-27). Therefore, this reference may reasonably be read to teach or describe every element or claim limitation of Claims 70-72 and 86.

9. Finally, regarding Claims 75-77, Lumelsky discloses a method for device management wherein said first server comprises a device list, said first device list comprising a device record for said device, further comprising; transferring said device record to a second device manager in said second server; and said second device manager updating a second device list to include said device record; matching said request with said device record in said second device list; and

determining said service manager that manages said device from said second device list, (Col. 5 and 6). Therefore, this reference may reasonably be read to teach or describe every element or claim limitation of Claims 75-77.

Response to Arguments

10. Applicant's arguments filed 29 December 2003, have been fully considered but they are not persuasive.

11. Applicant's arguments do not comply with 37 CFR 1.111(c) because they do not clearly point out the patentable novelty which he or she thinks the claims present in view of the state of the art disclosed by the references cited or the objections made. Further, they do not show how the amendments avoid such references or objections.

12. In response to Applicant's argument that Lumelsky addresses the management of media resources provided over the Internet, rather than device service located on a server to a device located on a client is irrelevant. The fact that Applicant has recognized another advantage that would flow naturally from following the suggestion of the prior art cannot be the basis for patentability when the differences would otherwise be obvious. See *Ex parte Obiaya*, 227 USPQ 58, 60 (Bd. Pat. App. & Inter. 1985).

13. Further, Examiner notes that the management of information over a network, such as the Internet, implies a transfer of data from a server to a client. Examiner also notes that the information management capabilities ascribed to Lumelsky include the set of critical resource requirements for the provisioning of a media service. Said critical resource requirements would include those resources necessary for proper distribution of an arbitrary service, such as, but not

limited to a driver service, wherever located. Moreover, Examiner notes that Lumelsky provides means for time-variant envelope profiles and run-time compensation strategies as needed. Therefore, Examiner reiterates the original grounds for rejection as applied to the new claims as Examiner finds Lumelsky to fully encompass and anticipate all claims enumerated by Applicant, as noted herein above.

14. Applicant has added new Claims 52-93, which are also rejected as enumerated herein above.

15. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

16. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Conclusion

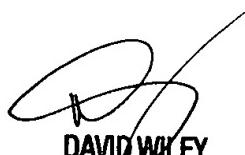
17. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Arrienne M. Lezak whose telephone number is (703)-305-0717. The examiner can normally be reached on M-F 8:30-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A. Wiley can be reached on (703)-308-5221. The fax phone number for the organization where this application or proceeding is assigned is (703)-305-3718.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)-305-6121.

Arrienne M. Lezak
Examiner
Art Unit 2143

AML



DAVID WILEY
SUPERVISORY PATENT EXAMINER
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